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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 5th
December, 1988:—

I

BILL NO. LII OF 1988

A Bill further to amend the Central Industrial Security Force Act, 1968.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic
of India as follows:—

1. This Act may be called the Central Industrial Security Force
(Amendment) Act, 1988.

Short
title.

50 of 1968.

2. In the Central Industrial Security Force Act, 1968 (hereinafter
referred to as the principal Act), in the long title, after the words
“other industrial undertakings”, the words “and the employees of all such
industrial undertakings” shall be inserted.

Amend-
ment of
long
title.

3. In section 8 of the principal Act, in clause (i), for the word
“suspend”, the word “remove” shall be substituted.

Amend-
ment of
section
8.

4. In section 10 of the principal Act, for clause (d), the following
clauses shall be substituted, namely:—

Amend-
ment of
section
10.

“(d) to protect and safeguard the employees of the industrial
undertakings and installations referred to in clauses (b) and (c);

(e) to do any other act conducive to the better protection and security of the industrial undertakings and installations referred to in clauses (b) and (c) and the employees referred to in clause (d).".

Amend-
ment of
section
11.

5. In ~~section 11~~ of the principal Act, in sub-section (1),—

~~(a)~~ for clause (i), the following clause shall be substituted, namely:—

"(i) any person who voluntarily causes hurt to, or attempts voluntarily to cause hurt to, or wrongfully restrains or attempts wrongfully to restrain or assaults, threatens to assault, or uses, or threatens or attempts to use, criminal force to any employee, referred to in clause (d) of section 10, or to him or any other member of the Force, in discharge of his duty as such employee or in execution of his duty as such member, as the case may be, or with intent to prevent or to deter him from discharging his duty as such member, or in consequence of anything done or attempted to be done by him in the lawful discharge of his duty as such member;"

(b) in clause (iii), the word "imminent" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Central Industrial Security Force (CISF) was raised under the Central Industrial Security Force Act, 1968 to provide protection and security to Central Government Industrial Undertakings. At present, it is deployed in 182 Government/Public Undertakings all over the country. The demands from Government/Public Undertakings for deployment of the CISF have grown in recent years due to the prevailing security environment in some parts of the country. The managements of these Undertakings expect CISF to provide security not only to vital industrial installations but also to the employees of these Undertakings. Increasingly therefore, the CISF, as an Armed Force of the Union, is being called upon to ensure the protection of machinery and property as well as the employees who are essential to running these Undertakings. The Force is expected to be in a position to provide effective security to the employees of these Undertakings so that they could attend to their jobs without any fear while on duty.

2. At present, under section 11(1) (iii), the CISF can only act in times of "imminent danger" which is interpreted to mean immediate danger which cannot be instantly met or one that cannot be guarded against by calling on the assistance of others or the protection of the law. The CISF cannot exercise its limited powers of arrest under this section unless these conditions are met. The word "imminent" qualifying the word "danger" is a serious limitation upon the freedom of CISF to act in the face of a threat and does not seem warranted in the present circumstances. It is proposed, therefore, to remove the word "imminent" occurring in clause (iii) of sub-section (1) of section 11 of the CISF Act.

3. It is also considered appropriate to take the opportunity to substitute the word "remove" for the word "suspend" in clause (i) of section 8 of the Act. This will bring section 8 of the Act in conformity with provisions contained in the Constitution and other Service Rules.

4. The Bill seeks to achieve the above mentioned objects.

P. CHIDAMBARAM

II

BILL NO. LIII OF 1988

A Bill further to amend the Press and Registration of Books Act, 1867,

as it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

Short
title
and com-
mence-
ment.

1. (1), This Act may be called the Press and Registration of Books (Amendment) Act, 1988.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
the long
title.

2. In the Press and Registration of Books Act, 1867 (hereinafter referred to as the principal Act), in the long title, for the words "Printing-presses and Newspapers, for the preservation of copies of books and newspapers printed in India, and for the registration of such books and newspapers", the words "Printing-presses, daily newspapers and periodicals, for the preservation of copies of books, daily newspapers and periodicals printed in India, and for the registration of such books, daily newspapers and periodicals" shall be substituted.

26 of 1967.

Amend-
ment of
the
Preamble.

3. In the Preamble to the principal Act, for the words "printing-presses and of newspapers, for the preservation of copies of every book and newspaper printed in India and for the registration of such books and newspapers", the words "printing-presses, daily newspapers and periodicals, for the preservation of copies of every book, daily newspaper and periodical printed in India and for the registration of such books, daily newspapers and periodicals" shall be substituted.

4. Throughout the principal Act (other than section 5A), save as otherwise expressly provided in this Act, for the words "newspaper" and "newspapers", wherever they occur, the words "daily newspaper or periodical" and "daily newspapers or periodicals" shall, respectively, be substituted and such other consequential amendments as the rules of grammar may require, shall also be made.

Substitution of new expressions for certain existing expressions.

5. In section 1 of the principal Act, in sub-section (1),—

Amendment of section 1.

(a) after the definition of "Book", the following definition shall be inserted, namely:—

"daily newspaper" means any printed work of daily periodicity published on not less than six days in a week, containing public news or comments on public news, and includes any supplement or special edition of such newspaper;";

(b) the definition of "newspaper" shall be omitted;

(c) in the definition of "paper", for the word "newspaper", the words "daily newspaper and a periodical" shall be substituted;

(d) after the definition of "paper" as so amended, the following definition shall be inserted, namely:—

"periodical" means any printed work of any periodicity other than a daily newspaper which may or may not contain public news or comments on public news, and includes any supplement or special edition of such periodical;";

(e) in the definition of "Press Registrar", for the words "Registrar of newspapers for India", the words "Press Registrar" shall be substituted;

(f) in the definition of "Register", for the words "Register of newspapers", the words "Register for daily newspapers or the Register for periodicals" shall be substituted.

6. After section 4 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 4A.

"4A. (1) Every person intending to print or publish any daily newspaper or periodical shall, before adopting the procedure specified in section 5, submit to the Press Registrar an application in the prescribed form indicating in order of preference three alternative titles of the daily newspaper or, as the case may be, periodical which he proposes to print or publish, seeking from the Press Registrar a certificate to the effect that any one of the titles indicated in the application is not the same as, or similar to, that of any other daily newspaper or periodical published either in the same language or in the same State.

Certificate relating to the title of daily newspaper, etc.

(2) On receipt of an application under sub-section (1), the Press Registrar shall,—

(i) where he is satisfied, after verifying from his records, that all or any of the titles mentioned in the application under

sub-section (1) are or is not the same as, or similar to, those or that of any other daily newspaper or periodical published either in the same language or in the same State, issue a certificate in duplicate to the applicant to that effect and, in accordance with the order of preference indicated in the application under sub-section (1), allot one of the titles indicated in the application to him; or

(ii) where none of the titles indicated in the application can be allotted to the applicant by reason of the fact that the titles applied for are the same as, or similar to, those of any other daily newspapers or periodicals published either in the same language or in the same State, refuse to issue the certificate and communicate the above facts to the applicant.”.

Amend-
ment of
section 5.

7. In section 5 of the principal Act,—

(i) in the opening paragraph, for the words “rules hereinafter laid down:”, the words “following procedure,—” shall be substituted;

(ii) to rule (2), the following proviso shall be added at the end, namely:—

“Provided that the printer or publisher may, where he does not intend to appear in person or by an agent so authorised, send the declaration in duplicate to the Magistrate concerned by registered post.”;

(iii) for the word “rule” occurring in clause (2A), clause (2B) and the proviso to clause (3), the word “clause” shall be substituted;

(iv) after clause (2A), the following clauses shall be inserted, namely:—

“(2AA) Every declaration under clause (2) shall be accompanied by an affidavit by the printer or publisher that the proposed title of the publication has been certified by the Press Registrar as required under clause (i) of sub-section (2) of section 4A and the original certificate issued by the Press Registrar.

(2AB) The printer or publisher shall, within ten days of making and subscribing or, as the case may be, sending the declaration under clause (2), forward to the Press Registrar a copy each of the declaration and the documents referred to in clause (2AA).”;

(v) clause (2C) shall be omitted;

(vi) for clauses (5), (6) and (7), the following clauses shall be substituted, namely:—

“(5) Every certificate issued by the Press Registrar under clause (i) of sub-section (2) of section 4A shall lapse if the printer or publisher does not commence publication of the daily newspaper or periodical within a period of three months of the date of issue of such certificate:

Provided that the Press Registrar may, if he is satisfied that the printer or publisher could not commence publication of the daily newspaper or periodical within the said period of three months for reasons beyond his control, extend the time limit for commencing such publication by a further period not exceeding three months.

(6) Notwithstanding anything contained in the foregoing provisions in this section, it shall be open to any person to commence the printing or publication of any daily newspaper or periodical immediately after the receipt of a certificate from the Press Registrar subject to the condition that the printer or publisher of such newspaper or periodical shall, within one month of the date of the commencement of the publication of such newspaper or periodical, make and subscribe, or, as the case may be, send, a declaration under clause (2) to the Magistrate concerned.

(7) Where a printer or publisher fails to make and subscribe, or, as the case may be, send, a declaration as required under clause (6), the Press Registrar shall, after giving the printer or publisher a reasonable opportunity of being heard, by order, cancel the certificate and the title allotted to the printer or publisher shall stand cancelled and thereupon such title shall become available for allotment to any other applicant."

8. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 6.

"6. (1) Each of the copies of every declaration made and subscribed or, as the case may be, sent under section 5 shall be authenticated by the signature and official seal of the Magistrate, before whom the said declaration has been made and subscribed or, as the case may be, to whom the said declaration has been sent, within a period of three months of the date of making and subscribing or, as the case may be, receipt, of the declaration unless the Magistrate finds that any of the particulars stated in the declaration is false.

Authentication of declaration.

(2) Where the Magistrate finds that any of the particulars stated in the declaration is false, he may, after giving the printer or publisher a reasonable opportunity of being heard, by order, refuse to authenticate the declaration and communicate the refusal to the printer or publisher by registered post along with a copy of his findings within fifteen days of the making of the order and the printer or publisher shall, on receipt of such order, cease forthwith the publication of the daily newspaper or periodical, if he has already commenced such publication, and the title allotted to him under sub-section (2) of section 4A and referred to in the declaration shall, from the date of the issue of the order by the Magistrate, be deemed to be available for being allotted to any other applicant:

Provided that where the Magistrate does not authenticate the declaration under sub-section (1) or pass an order under this sub-

section, within the period of three months referred to in sub-section (1), the declaration shall be deemed to have been authenticated by the Magistrate.

(3) (a) One of the copies of every declaration shall be kept deposited among the records of the office of the Magistrate and the other copy shall be kept deposited among the records of the High Court of Judicature, or other principal Civil Court of original jurisdiction for the place where the said declaration shall have been made.

(b) A copy of the declaration attested by the official seal of the Magistrate or a copy of the order under sub-section (2) refusing to authenticate the declaration, shall be forwarded within fifteen days of the date of authentication of the declaration or the order of such refusal, as the case may be, to the Press Registrar and also to the person making and subscribing, or, as the case may be, sending, the declaration.

(c) The officer-in-charge of each copy shall allow any person to inspect that copy on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the copy, on payment of a fee of two rupees.”.

Amend-
ment of
section 8.

9. In section 8 of the principal Act,—

(a) in the first paragraph,—

(i) in the opening portion, after the words “he shall appear”, the words and figures “in person or by agent authorised in this behalf in accordance with rules made under section 20” shall be inserted;

(ii) the following proviso shall be added at the end, namely:—

“Provided that such person may, where he does not intend to appear in person or by an agent so authorised, send the declaration in duplicate to the Magistrate concerned by registered post.”;

(b) for the word “original”, wherever it occurs, the word “copy” shall be substituted.

Amend-
ment
of sec-
tion 8B.

10. In section 8B of the principal Act,—

(a) after clause (iii), the following clause shall be inserted, namely:—

“(iiiia) the printer or publisher has failed to publish (except for reasons of strike, lock-out, go-slow, power shortage or other reasons beyond his control),—

(a) in the case of a daily newspaper, at least seventy-eight issues in any quarter of a calendar year; or

(b) in the case of a periodical, its next issue within three months of the publication of its preceding issue; or”;

(b) in clause (iv), the words “or in respect of a periodical work which is not a newspaper” shall be omitted;

(c) after the words "the Magistrate may," the words "for reasons to be recorded in writing," shall be inserted.

11. After section 8B of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
8BA.

"8BA. Where the declaration in respect of a daily newspaper or periodical is cancelled under this Act, the applicant referred to in clause (i) of sub-section (2) of section 4A to whom a certificate has been issued thereunder shall cease to use the title referred to in the said declaration and that title shall become available for allotment to another applicant:

Conse-
quences
of cancel-
lation of
declara-
tion.

Provided that nothing contained in this section shall absolve the said applicant of any liability which he may incur or may have incurred in relation to the use of the aforesaid title during the period of its allotment to such applicant."

12. In section 8C of the principal Act,—

Amend-
ment of
section
8C.

(a) in sub-section (1), after the words, figure and letter "under section 8B", the words, figures and letter "or by an order of the Press Registrar imposing a penalty under section 19K" shall be inserted;

(b) in sub-section (2), after the words "the Magistrate", the words "or the Press Registrar" shall be inserted.

13. In section 9 of the principal Act, in the third paragraph, in clause (ii), for the words "rules laid down", the words "procedure specified" shall be substituted.

Amend-
ment of
section
9.

14. In section 19A of the principal Act, for the words "Registrar of newspapers for India", the words "Press Registrar" shall be substituted.

Amend-
ment of
section
19A.

15. In section 19B of the principal Act,—

Amend-
ment of
section
19B.

(a) in sub-section (1), for the words "a Register of newspapers", the words "separate Registers for daily newspapers and periodicals" shall be substituted;

(b) in sub-section (2), for clause (k), the following clauses shall be substituted, namely:—

"(k) the total number of persons employed, the capital invested and the production capacity of the machinery used;

(l) the volume of advertisement published and the value thereof;

(m) such other techno-economic information about printing and other particulars as may be prescribed."

16. For section 19C of the principal Act, the following section shall be substituted, namely:—

Substi-
tution
of new
section
for
section
19C.

Certifi-
cate of
registra-
tion.

"19C. (1) The printer or publisher shall, after the declaration in respect of a daily newspaper or periodical is authenticated by the Magistrate under section 6, apply to the Press Registrar in the prescribed form and manner together with the first and the latest issue of the daily newspaper or periodical for the grant of a certificate of registration in respect of such daily newspaper or periodical.

(2) On receipt of an application under sub-section (1) and a copy of the declaration from the Magistrate under section 6 in respect of a daily newspaper or periodical, the Press Registrar shall, as soon as practicable, issue to the printer or publisher thereof a certificate of registration in respect of the daily newspaper or, as the case may be, the periodical."

Amend-
ment of
section
19F.

17. In section 19F of the principal Act,—

(a) after the words "The Press Registrar", the words "or the District Magistrate" shall be inserted;

(b) for the word "him", the words "either of them" shall be substituted;

(c) after the words "under this Act", the words and figure "or for the purpose of verification of the particulars given in the declaration under section 5" shall be inserted.

Amend-
ment of
section
19K,

18. Section 19K of the principal Act shall be renumbered as sub-section (1) thereof, and,—

(a) in sub-section (1) as so renumbered, for the words "he shall be punishable with fine which may extend to five hundred rupees", the words "the Press Registrar may, after giving him an opportunity of showing cause against the action proposed to be taken, by order, impose on him a penalty which may extend to five thousand rupees" shall be substituted;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) The penalty imposed under sub-section (1) shall be recoverable as an arrear of land revenue."

Amend-
ment of
section 20A.

19. In section 20A of the principal Act, in sub-section (1),—

(i) clause (a) shall be relettered as clause (aa) and before clause (aa) as so relettered, the following clause shall be inserted, namely:—

"(a) prescribing the form of application to be submitted to the Press Registrar under sub-section (1) of section 4A;";

(ii) after clause (e), the following clauses shall be inserted, namely:—

"(ea) prescribing the particulars of techno-economic information about printing and other particulars which the Register for daily newspapers or the Register for periodicals may contain under clause (m) of sub-section (2) of section 19B;

(eb) prescribing the form of application and the manner in which it is to be sent to the Press Registrar under sub-section (1) of section 19C;".

STATEMENT OF OBJECTS AND REASONS

The Press and Registration of Books Act, 1867 provides for regulation of printing-presses and newspapers, for the preservation of copies of books and newspapers printed in India and for the registration of such books and newspapers.

2. The Second Press Commission, in its report submitted to the Government in May, 1982, made a number of recommendations for amending the Act. The Department of Personnel and Public Grievances also made a detailed study of the procedure followed by the Registrar of Newspapers for India and made a number of recommendations, especially in regard to registration of newspapers. Some suggestions for amendment of the Act were also made in the Conference of State Information Ministers held in 1985. Keeping in view the recommendations received on the subject, Government had undertaken a comprehensive review of the Act in so far as it relates to newspapers with a view to streamlining the various procedures for publication of newspapers.

3. Some of the important amendments proposed in the Bill are:—

(i) It is proposed to facilitate the commencement of publication of a new newspaper further. At present, an intending publisher has to apply to the Registrar of Newspapers for India through the District Magistrate concerned for the clearance of the title and after obtaining the title, he has to file a declaration before the District Magistrate concerned personally and the publication can be commenced only after the declaration is authenticated by the District Magistrate. It is proposed to amend this procedure by providing that the intending publisher may apply directly to the Registrar of Newspapers for India, and after obtaining a title, he may file a declaration before the District Magistrate. His personal appearance before the District Magistrate has been made optional and he will be at liberty to commence the publication of the newspaper pending authentication of the declaration by the District Magistrate.

(ii) A large number of titles (approximately 1.80 lakhs) are lying blocked. It is proposed to amend the relevant provision to defreeze them with the result that not only the intending publishers will have a wider choice of titles, but the Registrar of Newspapers for India will also be in a position to dispose of applications for title more expeditiously.

(iii) Unlike in the past, the titles of publication which cease to have valid declaration in terms of the Act will now be available to other applicants, if they so desire. However, care has been taken to ensure that the previous owner of the title will continue to be responsible for any legal liability arising in respect of the period when the title was vested with him.

(iv) It is proposed to make the Registrar of Newspapers for India's office a repository of comprehensive information in regard to the newspaper industry which would, *inter alia*, include data about persons employed, capital invested, machinery in use and other techno-economic data. This will help the Government to formulate various policies for a healthy and balanced growth of newspapers.

(v) The power to impose fines on erring newspapers is being transferred from the District Magistrate to the Press Registrar with a view to simplifying administration.

(vi) It is proposed to confer powers on the District Magistrate in matters relating to checks on circulation as the Registrar of Newspapers for India is not equipped with adequate machinery for the purpose. This will help *bona fide* newspapers.

4. The Bill seeks to achieve the above objects.

H. K. L. BHAGAT.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill seeks to amend section 8 of the Act to enable the printer or publisher of any newspaper to make a new declaration either in person or through an agent authorised in this behalf in accordance with rules made by the State Government under section 20 of the Act.

Clause 19 of the Bill seeks to amend section 20A of the Act to enable the Central Government to make rules for prescribing the form of application to be submitted to the Press Registrar under sub-section (1) of section 4A, prescribing the particulars of techno-economic information about printing and other particulars which the Register for daily newspapers or the Register for periodicals is to contain under clause (m) of sub-section (2) of section 19B and prescribing the form of application and the manner in which it is to be sent to the Press Registrar under sub-section (1) of section 19C.

The matters in respect of which rules may be made by the State Government or the Central Government are matters of administrative detail and it is not possible to provide for them in the Bill. The delegation of legislative power is, therefore, of a normal character.

III

BILL No. LIV OF 1988

A Bill to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short
title,
extent,
com-
mence-
ment
and
appli-
cation.

1. (1) This Act may be called the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1988.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State.

(4) It applies to every establishment which employs, or had employed on any day of the preceding twelve months, fifty or more building workers in any building or other construction work.

Explanation.—For the purposes of this sub-section, the building workers employed in different relays in a day either by the employer or the contractor shall be taken into account in computing the number of building workers employed in the establishment.

2. (1) In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) “appropriate Government” means,—

14 of 1947.

(i) in relation to an establishment (which employs building workers either directly or through a contractor) in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government, the Central Government;

(ii) in relation to any such establishment, being a public sector undertaking as the Central Government may by notification specify which employs building workers either directly or through a contractor, the Central Government.

1 of 1956.

Explanation.—For the purposes of sub-clause (ii), “public sector undertaking” means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956, which is owned, controlled or managed by the Central Government;

(iii) in relation to any other establishment which employs building workers either directly or through a contractor, the Government of the State in which that other establishment is situate;

(b) “building or other construction work” means the construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation; drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government by notification, but does not include any building or other construction work, to which the provisions of the Factories Act, 1948 or the Mines Act, 1952, apply;

63 of 1948.
35 of 1952.

(c) “building worker” means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, in connection with any building or other construction work, but does not include any such person—

(i) who is employed mainly in a managerial or administrative capacity; or

(ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

(d) "Chief Inspector" means the Chief Inspector of Inspection of Building and Construction appointed under sub-section (2) of section 24;

(e) "contractor" means a person who undertakes to produce a given result for any establishment, other than a mere supply of goods or articles of manufacture, by the employment of building workers or who supplies building workers for any work of the establishment, and includes a sub-contractor;

(f) "Director General" means the Director General of Inspection appointed under sub-section (1) of section 24;

(g) "employer", in relation to an establishment, means the owner thereof, and includes,—

(i) in relation to a building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;

(ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;

(iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor;

(h) "establishment" means any establishment belonging to, or under the control of, Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work, and includes an establishment belonging to a contractor, but does not include an individual who employs such workers in any building or construction work in relation to his own residence;

(i) "notification" means a notification published in the Official Gazette;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "wages" shall have the same meaning as assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936.

4 of 1936.

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II

THE ADVISORY BOARDS AND EXPERT COMMITTEES

3. (1) The Central Government shall as soon as may be constitute a board to be called the Central Advisory Building and other Construction Workers Board (hereinafter referred to as the Central Board) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it.

Central
Advisory
Board.

(2) The Central Board shall consist of—

(a) a Chairman to be appointed by the Central Government;

(b) the Director General, *ex officio*;

(c) such number of other members, not exceeding thirteen but not less than nine, as the Central Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

4. (1) The State Government may constitute a board to be called the State Advisory Building and other Construction Workers Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it.

State Ad-
visory
Boards.

(2) The State Board shall consist of—

(a) a Chairman to be appointed by the State Government;

(b) the Chief Inspector, *ex officio*;

(c) such number of other members, not exceeding eleven but not less than seven, as the State Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the State Government, ought to be represented on the State Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the State Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

Expert
commit-
tees.

5. (1) The appropriate Government may constitute one or more expert committees consisting of persons specially qualified in building or other construction work for advising that Government for making under this Act.

(2) The members of the expert committee shall be paid such fees and allowances for attending the meetings of the committee as may be prescribed:

Provided that no fee or allowances shall be payable to a member who is an officer of Government or of any body corporate established by or under any law for the time being in force.

CHAPTER III

REGISTRATION OF ESTABLISHMENTS

Appoint-
ment of
regis-
tering
officers.

6. The appropriate Government may, by order notified in the Official Gazette,—

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit to be registering officers for the purposes of this Act; and

(b) define the limits within which a registering officer shall exercise the powers conferred on him by or under this Act.

Registra-
tion of
establis-
hments.

7. (1) Every employer shall,—

(a) in relation to an establishment to which this Act applies on its commencement, within a period of sixty days from such commencement; and

(b) in relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of sixty days from the date on which this Act becomes applicable to such establishment,

make an application to the registering officer for the registration of such establishment:

Provided that the registering officer may entertain any such application after the expiry of the periods aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration to the employer thereof in such form and subject to such conditions as may be prescribed.

(4) 'Where, after the registration of an establishment under this section, any change occurs in the ownership or management or other prescribed particulars in respect of such establishment, the particulars regarding such change shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed.'

8. If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact or that the provisions of this Act are not being complied with in relation to any work carried on by such establishment, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, he may, after giving an opportunity to the employer of the establishment to be heard, revoke the registration.

Revoca-
tion of
regis-
tration
in certain
cases.

9 (1) Any person aggrieved by an order made under section 8 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Appeal.

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, confirm, modify or reverse the order of revocation as expeditiously as possible.

10. No employer of an establishment to which this Act applies shall,—

Effect
of non-
regis-
tration.

(a) in the case of an establishment required to be registered under section 7, but which has not been registered under that section, and

(b) in the case of an establishment the registration in respect of which has been revoked under section 8 and no appeal has been preferred against such order of revocation under section 9 within the period prescribed for the preferring of such appeal or where an appeal has been so preferred, such appeal has been dismissed,

employ building workers in the establishment after the expiry of the period referred to in clause (a) or clause (b) of sub-section (1) of section 7, or after the revocation of registration under section 8 or after the expiry of the period for preferring an appeal under section 9 or after the dismissal of the appeal, as the case may be.

CHAPTER IV

HOURS OF WORK, WELFARE MEASURES AND OTHER CONDITIONS OF SERVICE OF BUILDING WORKERS

11. (1) The appropriate Government may, by rules,—

(a) fix the number of hours of work which shall constitute a normal working day for a building worker, inclusive of one or more specified intervals;

Fixing
hours for
normal
working
day, etc.

(b) provide for a day of rest in every period of seven days which shall be allowed to all building workers and for the payment of remuneration in respect of such days of rest;

(c) provide for payment for work on a day of rest at a rate not less than the overtime rate specified in section 12.

(2) The provisions of sub-section (1) shall, in relation to the following classes of building workers, apply only to such extent, and subject to such conditions, as may be prescribed, namely:—

(a) persons engaged on urgent work, or in any emergency which could not have been foreseen or prevented;

(b) persons engaged in a work in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;

(c) persons engaged in any work which for technical reasons has to be completed before the day is over;

(d) persons engaged in a work which could not be carried on except at times dependant on the irregular action of natural forces.

Wages
for
overtime
work.

12. (1) Where any building worker is required to work on any day in excess of the number of hours constituting a normal working day, he shall be entitled to wages at the rate of twice his ordinary rate of wages.

(2) For the purposes of this section, "ordinary rates of wages" means the basic wages plus such allowances as the worker is for the time being entitled to but does not include any bonus.

Main-
tenance
of
registers
and
records.

13. (1) Every employer shall maintain such registers and records giving such particulars of building workers employed by him, the work performed by them, the number of hours of work which shall constitute a normal working day for them, a day of rest in every period of seven days which shall be allowed to them, the wages paid to them, the receipts given by them and such other particulars in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the place where such workers may be employed, notice in the prescribed form containing the prescribed particulars.

(3) The appropriate Government may, by rules, provide for the issue of wage books or wage slips to building workers employed in an establishment and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

Prohibi-
tion of
employ-
ment of
certain
persons in
certain
building
or other
construc-
tion
work.

14. No person about whom the employer knows or has reason to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.

15. (1) The employed shall make in every place where building or other construction work is in progress, effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of wholesome drinking water.

Drinking
water.

(2) All such points shall be legibly marked "Drinking Water" in a language understood by a majority of the persons employed in such place and no such point shall be situated within six meters of any washing place, urinal or latrine.

16. In every place where building or other construction work is carried on, the employer shall provide sufficient latrine and urinal accommodation of such types as may be prescribed and they shall be so conveniently situated as may be accessible to the building workers at all times while they are in such place:

Latrines
and
urinals.

Provided that it shall not be necessary to provide separate urinals in any place where less than fifty persons are employed or where the latrines are connected to a water-borne sewage, system.

17. (1) In every place wherein more than fifty female building workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female workers.

Creches.

(2) Such rooms shall—

(a) provide adequate accommodation;

(b) be adequate lighted and ventilated;

(c) be maintained in a clean and sanitary condition;

(d) be under the charge of women trained in the care of children and infants.

18. Every employer shall provide in all the places where building or other construction work is carried on such first-aid facilities as may be prescribed.

First-aid.

19. The appropriate Government may, by rules, require the employer—

Canteens,
etc.

(a) to provide and maintain in every place wherein not less than two hundred and fifty building workers are ordinarily employed a canteen for the use of the workers;

(b) to provide such other welfare measures for the benefit of building workers as may be prescribed.

CHAPTER V

SAFETY AND HEALTH MEASURES

20. (1) In every establishment wherein five hundred or more building workers are ordinarily employed, the employer shall constitute a Safety Committee consisting of such number of representatives of the employer and the building workers as may be prescribed:

Safety
Com-
mittee
and
safety
officers.

Provided that the number of persons representing the workers shall, in no case, be less than the persons representing the employer.

(2) In every establishment referred to in sub-section (1), the employer shall also appoint a safety officer who shall possess such qualifications and perform such duties as may be prescribed.

Notice of
certain
accidents.

21. (1) Where in any establishment an accident occurs which causes death or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such a nature as may be prescribed, the employer shall give notice thereof to such authority in such form and within such time as may be prescribed.

(2) On receipt of a notice under sub-section (1), the authority referred to in that sub-section may make such investigation or inquiry as it considers necessary.

(3) Where a notice given under sub-section (1) relates to an accident causing death of five or more persons, the authority shall make an inquiry into such accident within one month of the receipt of the notice.

Power of
appropriate
Govern-
ment to
make rules
for the
safety and
health of
building
workers.

22. (1) The appropriate Government may, after previous publication, by notification, make rules regarding the measures to be taken for the safety and health of building workers in the course of their employment and the equipment and appliances necessary to be provided to them for ensuring their safety, health and protection, during such employment.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;

(b) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person and the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;

(c) the handling or use of explosives under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;

(d) the erection, installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;

(e) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment, where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;

(f) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;

(g) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;

(h) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;

(i) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of a prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working on any of the operations and as if it were securely fenced;

(j) the safe handling and use of plant, including tools and equipment operated by compressed air;

(k) the precautions to be taken in case of fire;

(l) the limits of weight to be lifted or moved by workers;

(m) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;

(n) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery, and tools and from overhead wires;

(o) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;

(p) the standards to be complied with in regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipments and floating operational equipments;

(q) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;

(r) the safety policy, that is to say, a policy relating to the steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefor and the matters connected therewith, to be framed by the employers and contractors for the operations to be carried on in a building or other construction work;

(s) the information to be furnished to the Bureau of Indian Standards established under the Bureau of Indian Standards Act, 1986, regarding the use of any article or process covered under that Act in a building or other construction work;

(t) the provision and maintenance of medical facilities for building workers;

(u) any other matter concerning the safety and health of workers working in any of the operations being carried on in a building or other construction work.

**Framing
of model
rules
for
safety
measures.**

23. The Central Government may, after considering the recommendation of the expert committee constituted under section 5, frame model rules in respect of all or any of the matters specified in section 22 and where any such model rules have been framed in respect of any such matter, the appropriate Government shall, while making any rules in respect of that matter under section 22, so far as is practicable, conform to such model rules.

CHAPTER VI

INSPECTING STAFF

**Appoint-
ment of
Director
General,
Chief
Inspector
and
Inspectors.**

24. (1) The Central Government may, by notification, appoint a Gazetted Officer of that Government to be the Director General of Inspection who shall be responsible for laying down the standards of inspection and shall also exercise the powers of an Inspector throughout India in relation to all the establishments for which the Central Government is the appropriate Government.

(2) The State Government may, by notification, appoint a Gazetted Officer of that Government to be the Chief Inspector of Inspection of Building and Construction who shall be responsible for effectively carrying out the provisions of this Act in the State and shall also exercise the powers of an Inspector under this Act throughout the State in relation to establishments for which the State Government is the appropriate Government.

(3) The appropriate Government may, by notification, appoint such number of its officers as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(4) Every Inspector appointed under this section shall be subject to the control of the Director General or the Chief Inspector, as the case may be, and shall exercise his powers and perform his functions under this Act subject to general control and supervision of the Director General or the Chief Inspector.

(5) The Director General, the Chief Inspector and every Inspector shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1880.

**Powers of
Inspect-
tors.**

25. (1) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, at all reasonable hours, with such assistants, (if any), being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where building or other construction work is carried on, for the purpose of examining any register or record or notices required to be kept or exhibited by or under this Act, and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a building worker employed therein;

(c) require any person giving out building or other construction work to any building worker, to give any information, which is in his power to give with respect to the names and addresses of the persons to, for and from whom the building or other construction work is given out or received, and with respect to the payments to be made for the building or other construction work;

(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the employer; and

(e) exercise such other powers as may be prescribed.

(2) For the purposes of this section, the Director General or the Chief Inspector, as the case may be, may employ experts or agencies having such qualifications and experience and on such terms and conditions as may be prescribed.

45 of 1880. (3) Any person required to produce any document or to give any information required by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

2 of 1974. (4) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to such search or seizure under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

CHAPTER VII

SPECIAL PROVISIONS

26. An employer shall be responsible for providing constant and adequate supervision of any building or other construction work in his establishment as to ensure compliance with the provisions of this Act relating to safety and for taking all practical steps necessary to prevent accidents.

Responsibility of employers.

27. (1) An employer shall be responsible for payment of wages to each building worker employed by him and such wages shall be paid on or before such date as may be prescribed.

Responsibility for payment of wages and compensation.

8 of 1923 (2) In case the contractor fails to make payment of compensation in respect of a building worker employed by him, where he is liable to make such payment when due, or makes short payment thereof, then, in the case of death or disablement of the building worker, the employer shall be liable to make payment of that compensation in full or the unpaid balance due in accordance with the provisions of the Workmen's Compensation Act, 1923, and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

Notice of
commence-
ment of
building
or other
construc-
tion
work.

28. (1) An employer shall, at least thirty days before the commencement of any building or other construction work, send or cause to be sent to the Inspector having jurisdiction in the area where the proposed building or other construction work is to be executed, a written notice containing—

- (a) the name and situation of the place where the building or other construction work is proposed to be carried on;
- (b) the name and address of the person who is undertaking the building or other construction work;
- (c) the address to which communications relating to the building or other construction work may be sent;
- (d) the nature of the work involved and the facilities, including any plant and machinery, provided;
- (e) the arrangements for the storage of explosives, if any, to be used in the building or other construction work;
- (f) the number of workers likely to be employed during the various stages of building or other construction work;
- (g) the name and designation of the person who will be in overall charge of the building or other construction work at the site;
- (h) the approximate duration of the work;
- (i) such other matters as may be prescribed.

(2) Where any change occurs in any of the particulars furnished under sub-section (1), the employer shall intimate the change to the Inspector within two days of such change.

CHAPTER VIII

PENALTIES AND PROCEDURE

Penalty
for
contra-
vention of
provisions
regard-
ing
safety
measures.

29. (1) Whoever contravenes the provisions of any rules made under section 22 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person who has been convicted of any offence punishable under sub-section (1) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees or with both:

Provided that for the purposes of this sub-section, no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted:

Provided further that the authority imposing the penalty, if it is satisfied that there are exceptional circumstances warranting such a course

may, after recording its reason in writing, impose a fine of less than five hundred rupees.

30. Where an employer fails to give notice of the commencement of the building or other construction work under section 28 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

Penalty for failure to give notice of the commencement of the building or other construction work.

31. (1) Whoever obstructs an Inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the Inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for obstructions.

(2) Whoever wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before, or being examined by, an Inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

32. (1) Whoever contravenes any other provision of this Act or any rules made thereunder or who fails to comply with any provision of this Act or any rules made thereunder shall, where no express penalty is elsewhere provided for such contravention or failure, be punishable with fine which may extend to one thousand rupees for every such contravention or failure, as the case may be, and in the case of a continuing contravention or failure, as the case may be, with an additional fine which may extend to one hundred rupees for every day during which such contravention or failure continues after the conviction for the first such contravention or failure.

Penalty for other offences.

(2) A penalty under sub-section (1) may be imposed—

(a) by the Director General where the contravention or failure relates to a matter to which the appropriate Government is the Central Government; and

(b) by the Chief Inspector where the contravention or failure relates to a matter to which the appropriate Government is the State Government.

(3) No penalty shall be imposed unless the person concerned is given a notice in writing—

(a) informing him of the grounds on which it is proposed to impose a penalty; and

(b) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

(4) Without prejudice to any other provision contained in this Act, the Director General and the Chief Inspector shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while exercising any powers under this section, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(5) Nothing contained in this section shall be construed to prevent the person concerned from being prosecuted under any other provision of this Act or any other law for any offence made punishable by this Act or by that other law, as the case may be, or for being liable under this Act or any such law to any other or higher penalty or punishment than is provided for such offence by this section;

Provided that no person shall be punished twice for the same offence.

Appeal.

33. (1) Any person aggrieved by the imposition of any penalty under section 32 may prefer an appeal,—

(a) where the penalty has been imposed by the Director General, to the Central Government;

(b) where the penalty has been imposed by the Chief Inspector, to the State Government,

within a period of three months from the date of communication to such person of the imposition of such penalty:

Provided that the Central Government or the State Government, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring an appeal within the aforesaid period of three months, allow such appeal to be preferred within a further period of three months.

(2) The appellate authority may, after giving the appellant an opportunity of being heard, if he so desires, and after making such further inquiry, if any, as it may consider necessary, pass such order as it thinks fit confirming, modifying or reversing the order appealed against or may

send back the case with such directions as it may think fit for a fresh decision.

34. Where any penalty imposed on any person under section 32 is not paid,—

Recovery
of penalty.

(i) the Director General or, as the case may be, the Chief Inspector may deduct the amount so payable from any money owing to such person which may be under his control; or

(ii) the Director General or, as the case may be, the Chief Inspector may recover the amount so payable by detaining or selling the goods belonging to such person which are under his control; or

(iii) if the amount cannot be recovered from such person in the manner provided in clause (i) or clause (ii), the Director General or, as the case may be, the Chief Inspector may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue.

35. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

36. (1) No court shall take cognizance of any offence punishable under this Act except on a complaint—

Cogni-
zance of
offences.

(a) made by, or with the previous sanction in writing of, the Director General or the Chief Inspector; or

(b) made by an office-bearer of a voluntary organisation registered under the Societies Registration Act, 1860; or

(c) made by an office-bearer of a concerned trade union registered under the Trade Unions Act, 1926.

16 of 1926.

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

Limita-
tion of
prosecu-
tions.

37. No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the Director General, the Chief Inspector, an office-bearer of a voluntary organisation or, as the case may be, an office-bearer of a concerned trade union.

CHAPTER IX

MISCELLANEOUS

Applica-
tion of
Act 8
of 1923
to build-
ing
workers.

38. The provisions of the Workmen's Compensation Act, 1923, shall, so far as may be, apply to building workers as if the employment to which this Act applies had been included in the Second Schedule to that Act.

Applica-
tion of
other
laws to
building
workers.

39. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to building workers immediately before the commencement of this Act.

Protec-
tion of
action
taken
under
the Act.

40. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made or issued thereunder.

Power
to give
direc-
tions.

41. The Central Government may give directions to the Government of any State as to the carrying into execution in that State of any of the provisions of this Act.

Power
to re-
move
difficul-
ties.

42. (1) If any difficulty arises in giving effect to the provisions of this Act, the appropriate Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made in relation to any State after the expiry of two years from the date on which this Act comes into force in that State.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament or, as the case may be, before each House of State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.

43. (1) The appropriate Government may, after consultation with the expert committee, wherever it considers necessary, and after previous publication, by notification, make rules for carrying out the provisions of this Act.

Power
to make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of persons to be appointed as members representing various interests on the Central Board and the State Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies under sub-section (3) of section 3, or, as the case may be, under sub-section (3) of section 4;

(b) the fees and allowances that may be paid to the members of the expert committee for attending its meetings under sub-section (2) of section 5;

(c) the form of application for the registration of an establishment, the levy of fees therefor and the particulars it may contain under sub-section (2) of section 7;

(d) the form of certificate of registration and the conditions subject to which such certificate may be issued under sub-section (3) of section 7;

(e) the form in which the change in ownership or management or other particulars shall be intimated to the registering officer under sub-section (4) of section 7;

(f) the matters required to be provided under sub-section (1) of section 11 and the extent up to which, and the conditions subject to which, the provisions of that sub-section shall apply to the building workers under sub-section (2) of that section;

(g) the registers and records that shall be maintained by the employer and the form in which such registers and records shall be maintained and the particulars to be included therein under sub-section (1) of section 13;

(h) the form and manner in which a notice shall be exhibited and the particulars it may contain under sub-section (2) of section 13;

(i) the issue of wage books or wage slips to building workers and the manner in which entries are to be made and authenticated in wage books or wage slips under sub-section (3) of section 13;

(j) the types of latrines and urinals required to be provided under section 16;

(k) the first-aid facilities which are to be provided under section 18;

(l) the canteen facilities which are to be provided under clause (a) of section 19;

(m) the welfare measures which are to be provided under clause (b) of section 19;

(n) the number of representatives of the employer and the building workers under sub-section (1) of section 20 and the qualifications of safety officers and the duties to be performed by them under sub-section (2) of that section;

(o) the form of a notice of accident, other matters to be provided in this behalf and the time within which such notice shall be given under sub-section (1) of section 21;

(p) the rules to be made for the safety and health of building workers under section 22;

(q) the powers that may be exercised by an Inspector under clause (e) of sub-section (1) of section 25 and the qualifications and experience which the experts or agencies employed under sub-section (2) of that section shall possess and the terms and conditions on which such experts or agencies may be employed;

(r) the date on or before which wages shall be paid to a building worker under section 27;

(s) the matters which are required to be prescribed under clause (i) of sub-section (1) of section 28;

(t) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.

STATEMENT OF OBJECTS AND REASONS

The building and other construction work provides employment to more than two million building workers. Most of these building workers are engaged by contractors. But many of them are also employed on casual basis.

2. At present, certain aspects relating to employment and conditions of work of building and other construction workers are being regulated by certain legislative measures. There is, however, necessity for a specific legislation regulating more effectively the employment, safety, health, welfare and other conditions of service of building and other construction workers.

3. The State Governments and Union territory Administrations were consulted about enacting an appropriate Central legislation for regulating the safety, health, welfare measures and other conditions of service of building and other construction workers. A majority of them has favoured such a legislation. The State Labour Ministers' Conference held in July, 1980, also recommended a Central legislation to regulate the working conditions, hours of employment, payment of wages, welfare and safety measures in respect of workers in the building and other construction work.

4. The work of construction, maintenance, alteration, repair and demolition of buildings is characterised by inherent risk to the life and limb of the workers. In the absence of adequate statutory provisions, requisite information regarding the number and nature of accidents in respect of such matters is not available. However, it is generally accepted that the accident rate in respect of such matters is high.

5. In this context, the proposed legislation, *inter alia* provides for the following matters, namely:—

(i) to apply it to every establishment which employs, or had employed on any day of the preceding twelve months, fifty or more building workers in any building or other construction work;

(ii) to define "appropriate Government" in respect of various establishments and also to enable the Central Government to notify any public sector undertaking which is owned, controlled or managed by the Central Government in respect of which the Central Government will be the appropriate Government;

(iii) to empower the Central Government and the State Governments, as the case may be, to constitute Advisory Boards to advise on such matters arising out of the administration of the proposed legislation as may be referred to them. Such Advisory Boards shall consist, *inter alia*, of persons representing the employers, building workers, association of architects, engineers, accident

insurance institutions and any other interest which in the opinion of the Government, ought to be represented on such Boards;

(iv) to provide for the constitution of one or more expert committees consisting of persons especially qualified in building or other construction work for advising the Government for making rules under the proposed legislation;

(v) to provide for the registration of certain establishments, as defined in the proposed legislation, carrying on building or other construction work;

(vi) to enable the appropriate Government to fix hours for normal working day, day of rest, payment of wages for the day of rest, payment of overtime allowance and other welfare measures, such as, facilities regarding drinking water, latrines and urinals, creches, first-aid and canteens in respect of building workers;

(vii) to make adequate provisions in respect of building workers for their safety and health measures including appointments of safety committees and safety officers therefor;

(viii) to empower the Central Government to frame model rules for safety measures;

(ix) to provide for the appointment of appropriate inspecting staff including Director General of Inspection at the Central level and the Chief Inspector of Inspection of Building and Construction at the State level for ensuring effective implementation of the proposed legislation;

(x) to make special provisions regarding responsibility of employers to ensure compliance of the provisions of the proposed legislation and payment of wages in time to building workers;

(xi) to provide for deterrent punishment for contravention of provisions of the proposed legislation.

6. The Bill seeks to achieve the above objects.

BINDESHWARI DUBEY.

FINANCIAL MEMORANDUM

In accordance with the scheme of the Bill, the Central Government in relation to certain establishments carrying out building or other construction work will be the appropriate Government. There are certain provisions in the Bill, in particular, clauses 3, 5 and 24 and sub-clause (2) of clause 25 thereof, the administration of which may involve some expenditure from the Consolidated Fund of India. It is, however, proposed to incur expenditure only in respect of payment of fees and allowances to the concerned persons. It is not proposed to have a separate inspectorate organisation at the Centre for the purposes of the proposed legislation. At this stage it is not possible to make an accurate estimate of the amount which may be required for payment of the said fees and allowances. According to the present estimates, it is, however, not likely to exceed rupees one lakh per annum.

2. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the appropriate Government to make rules for fixing hours for normal working day for a building worker, a day of rest in every period of seven days which shall be allowed to all building workers and for the payment of remuneration to them.

2. Clause 22 of the Bill empowers the appropriate Government to make rules for the safety and health of building workers. Sub-clause (2) of that clause specifies the matters in respect of which rules may be made under this clause. These include, among other things, the safe means of access to, and the safety of, any working place, the precautions to be taken in connection with the demolition of a building or other structure, the handling or use of explosives, the erection, installation, use and maintenance of transporting equipment and lifting appliances, lighting of every working place, precautions to be taken to prevent inhalation of dust, etc., the precautions to be taken in case of fire, the steps to be taken to prevent danger to workers from live electric wires or apparatus, etc., the safety policy relating to the steps to be taken to ensure the safety and health of the building workers, the provisions and maintenance of medical facilities and other matters concerning the safety and health of building workers. Clause 23 of the Bill provides for framing of model rules by the Central Government for the safety measures referred to in clause 22. Clause 23 also provides that the appropriate Government shall, while making any rules in respect of any matter under section 22, so far as is practicable, conform to such model rules.

3. Clause 43 of the Bill empowers the appropriate Government to make, after consultation with the expert committee constituted under clause 5 of the Bill, wherever it considers necessary and, after previous publication thereof, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of that clause specifies the matters in respect of which rules may be made under clause 43. These include, among other things, the appointment, etc., of members representing various interests on the Central and State Advisory Boards, the various types of forms to be prescribed of applications, certificates, registers, etc., under various provisions of the Bill, latrines, urinals, first-aid facilities, canteen facilities and welfare measures for building workers, qualifications of safety officers, powers to be exercised by an Inspector, conditions of service of the experts and agencies to be employed and the period within which wages shall be paid to building workers.

4. The matters with respect to which the said rules may be made are matters of procedure or administrative detail and it may not be possible to provide for them in the Bill itself. The provisions have also been made for laying of such rules before Parliament or the State Legislature, as the case may be.

5. In view of the nature of legislation involved, clause 42 empowers the appropriate Government to remove by order any difficulty which

may arise in giving effect to the provisions of the proposed legislation. This is by way of abundant caution and for covering difficulty which it is not practicable to visualise. It has, however, been provided that no such order shall be made after the expiry of a period of two years from the commencement of the Act. It has also been provided that a copy of every such order made shall be laid before Parliament or the State Legislature, as the case may be.

6. In the context of the circumstances as explained above, the delegation of legislative power involved is of a normal character.

SUDARSHAN AGARWAL,
Secretary-General

